

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 13
)
JONATHAN EDWARD KOONTZ)
)
NATALIE JOAN KOONTZ) CASE NO. 18-63634-wlh
DEBTORS.)

)
LAKEVIEW LOAN SERVICING, LLC)
MOVANT,)
) CONTESTED MATTER
V.)
)
JONATHAN EDWARD KOONTZ)
NATALIE JOAN KOONTZ)
NANCY J. WHALEY, Trustee)
Respondents.)
_____ /

NOTICE OF HEARING

PLEASE TAKE NOTICE that **Lakeview Loan Servicing, LLC**, has filed a motion for relief from stay and related papers with the Court and that the Court will hold a hearing on the motion **at 2:30 P.M. on March 11, 2020, Courtroom 1403, U.S. Bankruptcy Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303.**

Your rights may be affected by the Court's ruling on these pleadings. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case (if you do not have an attorney, you may wish to consult one). If you do not want the Court to grant the relief sought in these pleadings, or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response, you must attach a certificate stating when, how and to whom (including addresses) you served the response. Mail/deliver your response so it is received by the Clerk at least two (2) business days before the hearing. The address of the Clerk's office: **Clerk, United States Bankruptcy Court,**

Room 1340, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303. You must also mail a copy to the undersigned at the address below. In the event a hearing cannot be held within thirty (30) days from the filing of the motion for relief from the automatic stay as required by 11 U.S.C. §362, Movant waives this requirement and agrees to the next earliest possible date, as evidenced by signature below. *The undersigned consents to the automatic stay (and any related co-debtor stay) remaining in effect with respect to Movant until the Court orders otherwise.*

By: /s/ Cory P. Sims
Cory P. Sims, Esquire
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Atlanta, Georgia 30339
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Alternate Email: bkga@albertellilaw.com
Attorney for Creditor

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was provided via Regular U.S. Mail and/or Electronic Mail to the parties listed on the attached service list, this 28th day of February, 2020

By: /s/ Cory P. Sims
Cory P. Sims, Esquire
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100 Galleria Parkway, Suite 960
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Telephone: (813) 221-4743 ext. 1947
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Attorney for Creditor

SERVICE LIST

VIA REGULAR MAIL:
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Alpharetta, GA 30004
Debtor

VIA ECF:
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Slipakoff & Slomka, PC
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Attorney for Debtor

VIA REGULAR MAIL:
Nancy J. Whaley
Nancy J. Whaley, Standing Ch. 13 Trustee
303 Peachtree Center Avenue
Suite 120, Suntrust Garden Plaza
Atlanta, GA 30303
Trustee

VIA REGULAR MAIL:
U.S. Trustee - MAC
440 Martin Luther King Jr. Boulevard

Suite 302
Macon, GA 31201
Phone: (478) 752-3544
U.S. Trustee

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MOTION FOR RELIEF FROM AUTOMATIC STAY

Lakeview Loan Servicing, LLC, (“Movant”) hereby waives the 30 day hearing requirement of Section 362(e) and moves the Court under 11 U.S.C. §362(d) for relief from the stay for the purpose of foreclosing pursuant to a certain Security Deed, and states the following:

1. On August 14, 2018, Debtor(s) (the term “Debtor” herein shall refer to both single and joint debtors) filed a Voluntary Petition for Relief pursuant to Chapter 13 of the United States Bankruptcy Code.

2. On January 31, 2019; the Debtor’s Chapter 13 Plan was confirmed [Doc. No. 30]. The Debtor’s plan proposed curing Movant’s arrears through the Chapter 13 Plan and maintaining contractual payments directly.

3. Movant holds a security deed which describes real property owned by Debtors and known as 220 Hopewell Close Ln, Alpharetta, GA 30004 (the “Property”)

4. The Property is security for a promissory note held by Movant. A *true* and *correct* copy of the Note, Mortgage, together with the Assignment of Mortgage, are attached hereto as Exhibits “A” and “B” respectively.

5. As of February 12, 2020, the principal balance is **\$348,363.62**, and the value of the Property is approximately \$410,000.00, pursuant to the Debtor’s Schedule “D”.

6. The Debtors are in breach of the terms of the aforementioned Chapter 13 Plan and the note and security deed by failing to make the necessary post-petition payments and is now due for the November 1, 2019 post-petition payment. Post-petition arrearages are as follows:

4 payments @ \$2,573.53 for November 1, 2019 through February 1, 2020	\$10,294.12
Suspense	(\$1,519.11)
Costs: Attorney Fee	\$ 850.00
Costs: Court Filing Fee	\$ 181.00
 Total Post Petition Arrearage	 \$9,806.01

7. Movant respectfully requests that the Court grant it relief from the automatic stay pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the lack of adequate protection to Movant for its interest in the Property.

8. The Security Deed and 11 U.S.C. §506(b) entitles Movant to attorney fees in pursuing legal action such as this Motion, unless clearly shown that there is no equity in the property.

WHEREFORE, Movant prays (1) for an order relieving it from the bankruptcy stay and authorizing it to exercise foreclosure rights under its security deed; (2) for attorney fees under 11 U.S.C. §506(b); (3) for waiver of F.R.B.P. 4001(a)(3) to allow Movant to execute the order granting relief instant; and (4) for such further relief as the Court deems appropriate.

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Debtor

VIA ECF:

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Attorney for Debtor

VIA REGULAR MAIL:

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303 Peachtree Center Avenue

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Trustee

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U.S. Trustee - MAC

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Suite 302

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Phone: (478) 752-3544

U.S. Trustee